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ALEXANDER L. STEVAS,  
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No. 84-654

**In the Supreme Court**  
OF THE  
**United States**

OCTOBER TERM 1984

CHEVRON CORPORATION, et al.,  
*Petitioners,*

VS.

ARIZONA, CALIFORNIA, FLORIDA, et al.,  
*Respondents.*

On Petition for a Writ of Certiorari to the  
United States Court of Appeals for the  
Ninth Circuit

**BRIEF AMICUS CURIAE OF THE  
CITY OF LONG BEACH**

**~~IN SUPPORT OF AFFIRMANCE~~**

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**BRIEF AMICUS CURIAE OF THE  
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**QUESTION PRESENTED**

Does a government entity have a right to jury trial?

## **REASONS WHY THE WRIT SHOULD BE DENIED**

- 1. The Ninth Circuit correctly decided that a government entity has a constitutional right to jury trial.**

The Ninth Circuit recognized that there was no legal basis whatsoever for Petitioners' bald assertion that the Seventh Amendment right to civil jury trial did not apply to government entities. Petitioners' unsupported theory

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<sup>1</sup>The City of Long Beach is a plaintiff in a related MDL-150 case. Under Rule 36.4 of this Court, consent of the parties to the filing of this brief is unnecessary inasmuch as the City of Long Beach is a political subdivision of the State of California. Nevertheless, written consent of Chevron, the party responsible for drafting and filing the Petitioners' brief, and of respondent State of California is on file with the Clerk in compliance with Rule 36.1 of this Court.

was disposed of on the basis of this Court's long-established precedent concerning the right to jury trial. Trial by jury "has always been, and still is, generally regarded as the normal and preferable mode of disposing of issues of fact in civil cases at law as well as in criminal cases." *Dimick v. Schiedt*, 293 U.S. 474, 485-86 (1934).

The Ninth Circuit reaffirmed that antitrust suits for treble damages raise legal issues that are triable to a jury by applying the historical, issue-oriented test for determining when matters are jury triable under the Seventh Amendment. *United States v. Wonson*, 28 F.Cas. 745, 750 (C.C.D.Mass. 1812) (Story, J.); *Baltimore & Caroline Line, Inc. v. Redman*, 295 U.S. 654, 657 (1935); *Ross v. Bernhard*, 396 U.S. 531 (1970); *Curtis v. Loether*, 415 U.S. 189 (1974); *Pernell v. Southall Realty*, 416 U.S. 363 (1974).

The Ninth Circuit correctly held that neither the party-neutral language of the Seventh Amendment nor established case law supports Petitioners' attempt to limit the right to jury trial to individuals. The Ninth Circuit properly refused to find Petitioners' few selected quotations from colonial history a sufficient basis for radically altering traditional Seventh Amendment analysis. (Pet.Br. App. A, 16-21.) Moreover, the relevant history for interpreting the Seventh Amendment — what English juries did in 1791 — demonstrates that the government did in fact enjoy the right to jury trial. (Pet.Br. App. A, 14-15, discussing several English cases.)

## **2. The Petition does not raise an important question of federal law which this Court should review.**

As discussed above, the legal test for determining the scope of the Seventh Amendment right to civil jury trial has been well established by decisions of this Court. The

Ninth Circuit followed those cases in rejecting Petitioners' unfounded claim that government entities do not have a right to jury trial. Given the complete lack of authority for Petitioners' position, it is not surprising that the question is one of "first impression," as the Petitioners note. That, however, hardly makes the question sufficiently important to warrant review by this Court on *certiorari*.

Furthermore, there is no conflict among any Circuit Courts of Appeal on this question. Indeed, the only two other Circuit Courts that have addressed the question have held that government entities do have a right to jury trial, *United States v. New Mexico*, 642 F.2d 397, 400-401 (10th Cir. 1981) (State of New Mexico entitled to a jury trial); *E.E.O.C. v. Corry Jamestown Corp.*, 719 F.2d 1219, 1224-25 (3rd Cir. 1983) (Equal Opportunity Commission entitled to a jury trial.)

## CONCLUSION

Petitioners' position is that cities, states and other government entities never have a right to jury trial. In petitioners' view, cities would have no right to jury trial in the whole range of litigable matters in which cities are involved, including tort suits, municipal bus accidents, grievances filed by city employees, business matters, contractual disputes and the wide variety of other disputes which frequently proceed to trial. There is absolutely no authority for such wholesale bar to a government entity's right to jury trial. For the foregoing reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted,

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